



Hundredth Legislature - First Session - 2007
Introducer's Statement of Intent
LB 108

Chairperson: Philip Erdman
Committee: Agriculture
Date of Hearing: January 30, 2007

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 108 is offered as a substantial modernization of the Law of Division Fences in order to update the law in keeping with evolving rural land uses and ownership patterns. Nebraska and other western and midwestern state fence laws were typically first enacted at early settlement to be apply in an open range context and have not changed appreciably since that time. LB 108 is intended to adapt the law of division fences to be more in line with “fence in” rules that prevail today under Nebraska’s herd laws and and to those public interests in division fences that arise in the modern context.

LB 108 is intended to be responsive to certain caselaw finding constitutional defect with nearly identical or substantially similar laws in other states. It first redefines the circumstances under which neighboring rural landowners have a shared liability for the construction and maintenance of division fences and secondly to allow for more appropriate allocation of liability when neighboring landowners derive a disproportionate value in the fence. The current law’s assignment of equal share liability is only specifically retained when both landowners utilize a division fence to contain livestock. It is also the purpose of the bill to eliminate fenceviewer panels as intervening arbitors in fence disputes and to eliminate duties of counties under the current law. The bill reduces exercise of the police power in resolution of private fencing disputes, instead, making available an avenue of direct civil enforcement of neighboring landowner fencing responsibilities. However, the revisions to the fence law are intended to be crafted in a manner to encourage private agreement and opportunity for utilization of informal dispute resolution through mediation to resolve division fence liability issues before the parties resort to litigation. Revisions to the Nebraska Farm Mediation Act are made to accommodate acceptance of such disputes by that program.

Principal Introducer: _____
Senator Philip Erdman